

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

JEFFERSON-PILOT INSURANCE COMPANY, )  
)  
Plaintiff, )  
)  
vs. ) CASE NO.  
) C-1-02-479  
CHRISTOPHER L. KEARNEY, ) (Judge Spiegel)  
)  
Defendant. )

COPY

The deposition upon oral examination of HAROLD  
SHELTON, being taken pursuant to Order and in accordance  
with the Federal Rules of Civil Procedure before Rebecca J.  
Huddy, Notary Public, at the Marriott, 304 North Greene  
Street, Greensboro, North Carolina, on the 7th day of May,  
2004, beginning at 12:20 p.m.

Reported By: Rebecca J. Huddy

Huseby, Inc. An Affiliate of Spherion, 1230 W. Morehead St., Suite 408, Charlotte, NC 28208 (704) 333-9889

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1 A. Health, yes.

2 Q. So throughout the '90s you were doing -- overseeing  
3 claim analysts in the disability insurance claim  
4 field?

5 A. And hospital, yes.

6 Q. And hospital. Were there a lot of mistakes being made  
7 because the department was overloaded?

8 A. I felt with the volume of work that was there, our  
9 folks did a great job. I think, you know, we were  
10 constantly concerned about the welfare of the insured.  
11 Whatever this may appear, our major concern was that  
12 we get the folks their benefits, that we pay the  
13 claims according to the contracts, and that was our  
14 primary focus. I do feel that we had -- the reason I  
15 got involved in the claim and JL got involved in the  
16 claim was because of the staffing, we just needed all  
17 the help we could get in those situations.

18 Q. Are you talking about Mr. Roberson when you refer to  
19 JL?

20 A. Yes, JL Roberson.

21 Q. Within the past -- well, at your meeting with  
22 Mr. Ellis when he conducted and shared with you the  
23 revelation that you had made a mistake, did he give  
24 you the opportunity to look at the policy?

25 A. We did briefly review the policy and provisions of the

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1 conclusion.

2 A. No.

3 Q. Sir, at the beginning of your deposition counsel asked  
4 you if I was the one who advised you that a mistake  
5 had been made, and you admitted that that was the  
6 case. Did you in your own review of the policy and  
7 the attachment to the policy conclude whether or not I  
8 was correct that there had been a mistake --

9 MR. ROBERTS: Are you talking about after you  
10 told him or before? What time period?

11 MR. ELLIS: At any time.

12 MR. ROBERTS: Well, let's break it down,  
13 would you do that for me, to be clear on the record?

14 MR. ELLIS: No.

15 Q. At any time did you determine for yourself whether or  
16 not there was an error made in the payment of benefits  
17 to Mr. Kearney regarding increase in benefits or the  
18 Social Security benefit?

19 MR. ROBERTS: Objection.

20 A. Yes.

21 Q. Are you saying that only because I brought it to your  
22 attention or is that based upon your review of the  
23 actual contract between the parties?

24 MR. ROBERTS: Objection. He's testified he  
25 hasn't reviewed the entire contract.

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1 A. After going through the material and reviewing that, I  
2 determined that on my own.

3 MR. ROBERTS: Objection, move to strike,  
4 calls for a legal conclusion.

5 Q. Counsel in his question argued to you about whether or  
6 not there is a specific prohibition in the residual  
7 disability rider that says you don't get Social  
8 Security or COLA benefits. I'm going to ask you to  
9 look at Exhibit 4 again, which is those riders, and is  
10 there any specific exclusion to him receiving a  
11 benefit if his house burns down?

12 MR. ROBERTS: Objection, calls for a legal  
13 conclusion, irrelevant, argumentative.

14 Q. Pardon?

15 A. No.

16 Q. Are these riders in this contract designed to explain  
17 what they don't provide or what they do provide?

18 A. What they do provide.

19 MR. ROBERTS: Objection, calls for a legal  
20 conclusion.

21 Q. Counsel argued with you or asked you to review the  
22 elimination period --

23 MR. ROBERTS: Bill, I asked him questions. I  
24 didn't argue with him. Unless you change your  
25 phrasing of the question, I'm going to object for

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1 Q. Were you aware of whether or not at the time it was  
2 accurate that total disability benefits versus  
3 residual disability benefits were being paid?

4 A. No.

5 MR. ROBERTS: Objection.

6 A. I was not.

7 Q. Is that the type of confusion you were referring to  
8 between total and residual in Mr. Kearney's claim?

9 MR. ROBERTS: Objection, leading.

10 A. I would think so, yeah.

11 Q. Sir, of the five of you handling the claims during the  
12 period of time '94 to the time you retired -- well,  
13 let me ask it this way. At the time you retired, how  
14 many of you were there?

15 A. Four of us.

16 Q. Who were they?

17 A. That was -- well, actually three of us: Phyllis, Kim,  
18 and myself.

19 Q. What was the claim load that you three were handling?

20 A. I suspect a thousand a month, a thousand claims a  
21 month.

22 Q. Were the three of you physically capable of managing  
23 that many claims per month?

24 MR. ROBERTS: Objection.

25 A. Well, we had to. We didn't have any option at that

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1 time.

2 Q. Did you have the time to review each claim each month  
3 as the payment requests came in?

4 MR. ROBERTS: Objection.

5 A. No, I doubt it. I think that the shortcoming that we  
6 had was not being able to dig a little deeper into all  
7 of the claims when they were being processed.  
8 Primarily we were concerned about getting the benefits  
9 out.

10 Q. Was the lack of resources partially at fault, in your  
11 opinion --

12 MR. ROBERTS: Objection, misstates facts, no  
13 foundation.

14 Q. -- for the error in payments in Mr. Kearney's case?

15 MR. ROBERTS: Objection, no foundation,  
16 misstates facts, leading.

17 A. Yes, I think so.

18 MR. ELLIS: Thank you, sir. That's all I  
19 have.

20

21 FURTHER EXAMINATION (by Mr. Roberts):

22

23 Q. All right. Let's pick it up there. Now, Mr.  
24 Kearney's claim was a claim that was getting  
25 attention. You testified that when Chris Kearney